

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

**ANDREW HILLSTRAND, JOHNATHAN
HILLSTRAND, JOSHUA HARRIS, and
JACOB HARRIS,**

Plaintiffs,

V.

**CATCH PLANET, LLC d/b/a CATCH
PLANET and TRAVIS ARKET,**

Defendants.

Case No.: C12-1565RSL

JOINT STATUS REPORT AND DISCOVERY PLAN

The parties submit this Report pursuant to this Court’s Order Regarding Initial Disclosures, Joint Status Report, and Early Settlement (“Order”) (Doc. 12).

1. Statement of Nature and Complexity of Case

Plaintiff believes that this is a moderately complex trademark infringement and misappropriation of names and likenesses case. Defendants claim this case concerns claims of trademark infringement and injunctive relief. Defendants believe this case is not complex.

Plaintiffs' Statement Regarding Their Complaint

As more fully described in Plaintiffs' Complaint (Doc. 1), Plaintiff, Andrew Hillstrand, asserts that the Defendants have infringed upon his trademark rights which exist in the registered trademark for "Bad Boys of the Bering Sea", Registration No. 4,093,912 ("912 Registration"), for "t-shirts, sweatshirts, hats, visors, jackets, tank tops, short sleeve shirts, long sleeve shirts, headwear, hooded pullovers, and polo shirts." The '912 Registration is still in full force and effect, and no rights have been licensed to the Defendants. Plaintiff, Andrew Hillstrand is also

Joint Status Report and Discovery Plan - 1

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the owner of trademark application 85/369,089 for “Bad Boys of the Bering Sea” for “non-metal novelty license plates and mugs. Defendants are and continue to damage the goodwill of the Plaintiff, Andrew Hillstrand, through its sale of merchandise, which include clothing and mugs, containing the identical mark, i.e. “Bad Boys of the Bering Sea”, on its website www.catchplanet.com. The Defendants’ actions are willful and bad faith attempts to trade on Plaintiff, Andrew Hillstrand’s goodwill.

Additionally, the Defendants have misappropriated the names and likenesses of the Plaintiffs, which have gained international notoriety through their appearance on the television show “The Deadliest Catch”, and used the names and likenesses in its marketing and advertising plan and practice. Through the Defendants’ actions, the Defendants have reaped ill-gotten profits without ever obtaining the Plaintiffs’ consent to use their names and likenesses.

Defendants’ Statement Regarding Their Defense.

As more fully described in Defendants’ Answer, Plaintiffs’ claims alleged in their complaint arose before they acquired any interest in the trademark they allege they have registered. Defendants have never displayed, used or replicated the trademark or similar images Plaintiffs allege they have registered with the U.S. Patent Office on January 31, 2012, in commerce or otherwise, during the time period the trademark was alleged to have been registered by them. Based on the foregoing, Plaintiffs allegations fail to state a claim upon which relief can be granted.

2. Proposed Deadline for Joining Additional Parties

The proposed deadline for joining additional parties is 60 days after the date of this Report.

3. Assignment of Case to a Full Time United State Magistrate Judge

All parties consent to proceed before the Honorable James P. Donohue:

_____ **Yes** **X** **No**

4. Proposed Discovery Plan

A. The parties agree to exchange information described in Fed.R.Civ.P.

26(a)(1)(A) - (D) by February 19, 2013 pursuant to the Order (Doc. 12).

Below is a description of information disclosed or scheduled for disclosure:

Witnesses, relevant documents to this litigation, monetary damages, insurance coverage and privileged documents withheld.

B. The subjects on which discovery may be needed are those related to the allegations summarized in Paragraph 1 above. At this time, the parties do not contend that discovery should be conducted in phases or that it should be limited to or focused on any particular issue.

C. Discovery of electronically stored information (“ESI”) should be handled as follows:

General ESI production request under the Federal Rules of Civil

Procedure 34 and 45 shall not include metadata absent a showing of good cause. However, fields showing the date and time the document was sent or received, as well as the complete distribution list, shall generally be included in the production. General ESI production request under the

Federal Rules of Civil Procedure 34 and 45 shall not include email or other forms of electronic correspondence (collectively “email”). To obtain email, parties must propound specific email production requests. Email production requests shall identify a specific issue, search term, and time frame. The parties shall cooperate to identify the proper custodian, proper search terms, and proper time frame. The receiving party shall not use ESI that the producing party asserts is attorney-client privileged or work-product protected to challenge the privilege or protection. Pursuant to Federal Rule of Evidence 502(d), the inadvertent production of privileged or work-product protected ESI is not a waiver in the pending case or in any other federal or state proceeding.

- D. Claim of privilege or protection asserted after production shall be handled as follows:

The parties will stipulate to an appropriate Protective Order, which will be filed with the Court.

- E. No further proposed limitations on discovery.
- F. There is no need for any discovery related orders at this time.

5. Date Which Discovery Should be Completed

The parties agree that discovery should be completed by October 11, 2013.

6. Bifurcation

The parties do not propose bifurcation of issues.

7. Pretrial Order and Statement

The parties do not propose dispensing with pre-trial statement or pre-trial orders.

8. Individualized Trial Program or ADR Options

The parties believe that mediation is the appropriate ADR method for this matter.

9. Other Proposals for Shortening or Simplifying the Case

The parties do not propose any other methods to shorten or simplify the case at this time.

10. Trial Date

The parties propose that the matter will be ready for trial at the earliest in January 2014, approximately 12 months after the date of this Report.

11. Jury or Non-Jury Trial

The parties have requested a non-jury trial.

12. Number of Trial Days

The parties propose 3-4 trial days.

13. Trial Counsel

Trial Counsel for the parties are currently expected to be:

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14. Dates of Complication for Trial

Trial Counsel does not anticipate any dates that need to be considered in setting a trial date at this time.

15. Service of Defendants

As of the date of this Report, all Defendants/Respondents have been served.

16. Scheduling Conference

The parties do not wish a scheduling conference before the Court enters a scheduling order in this case.

17. Corporate Disclosure Statement

Catch Planet LLC filed its disclosure statement on January 25, 2013 pursuant to Fed. R. Civ. P. 7.1 and Local Civil Rule 7.1.

18. Pilot Project on Cameras in the Courtroom

The parties do not consent to having hearings in this matter video recorded.

DATED: January 28, 2013.

/s/ Mark F. Warzecha

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